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3 AAC is amended by adding a new chapter to read:

Chapter 148. Regional Seafood Development Associations.

Section

- 10. Qualification criteria
- 20. Application development period
- 30. Application period
- 40. Application review
- 50. Recommendation to commissioner
- 60. Commissioners final determination
- 70. Requesting state financial assistance
- 80. Prohibitions on use of tax contributions
- 900. Definitions

3 AAC 148.010. Qualification criteria. (a) To qualify as a regional seafood development association, an applicant must demonstrate that they meet the qualification criteria set forth in AS 44.33.065(a)(1)-(4).

(b) To demonstrate that the applicant is established for the purposes set forth in AS 44.33.065(a), the applicant must submit to the department a business plan describing in detail:

- (1) the overall mission and purpose;
- (2) management qualifications, including board of directors, experience of management, and organization chart;
- (3) economic development goals and strategies that show how the association

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will meet the purposes listed in AS 44.33.065(a)(1);

(4) estimated tax contributions and expenses, including administrative expenses;

and

(5) proposed financial reporting plan, including an audit plan.

(c) To demonstrate that the applicant can provide representation on the board of directors as required by AS 44.33.065(a)(2), the applicant must describe to the department in detail:

(1) the board election process and the number of seats on the board of directors;

(2) how the board election process will afford all permit classifications subject to a seafood development tax levied under AS 47.76.350-43.76.399 representation on the board of directors; and

(3) if the number of members elected to sit on the board and their representation is determined by considering each permit classification's relative tax contribution to the association.

(d) To demonstrate the applicant has met the membership criteria required under AS 44.33.065(3), the applicant must describe to the department how they will provide notice sufficient to reach all permitted fisherman and all interested persons in their region(s).

(e) To demonstrate the applicant is organized as a nonprofit corporation as required in AS 44.33.065(a)(4), the applicant must provide to the department a copy of its:

(1) certificate of incorporation;

(2) articles of incorporation;

(3) by-laws; and

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(4) administrative policies and procedures that address board of director structure, procurement activities, financial accountability, election consideration, and election process.

Authority: (Eff. __/__/__, Register __)AS 44.33.065

3 AAC 148.020. Association development period. (a) At least thirty (30) days prior to the application period for designation as a regional seafood development association, the department will announce an association development period for each region established in AS 44.33.065(b). The announcement will be:

- (1) advertised in newspapers with regional circulation; and
- (2) sent to each permit holder on record with the Limited Entry Commission for each fishery listed in that region.

(b) All interested applicants may submit written notice of their intention to apply for designation as a regional seafood development association and describe their:

- (1) proposed mission statement;
- (2) proposed management structure;
- (3) proposed economic development goals and strategies;
- (4) plan to involve all eligible permit holders from the region;
- (5) mechanisms to administer tax revenues fairly; and
- (6) attempts to gain support from permit holders in the region for their regional seafood development association.

(c) The department shall conduct an in-person or telephonic meeting with each respondent to discuss their proposal.

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(d) If the department receives more than one response from a region, the department shall encourage and assist the respondents to work together to develop an application that addresses the interest of all respondents.

(e) The department will prepare a summary report after each meeting it has with a respondent. The report will be available for public inspection. (Eff. ____/____/____, Register ____)

Authority: AS 44.33.065

3 AAC 148.030. Application period. (a) The application period for designation as a regional seafood development association in each region established in AS 44.33.065(b) will commence on March 1st, 2005.

(b) To submit an application, the applicant shall complete the department's application form, which requires providing:

- (1) a designated contact person;
- (2) the region(s) being applied for;
- (3) the permitted fisheries the applicant intends to hold elections for; and
- (4) information demonstrating that the qualification criteria set out in AS

43.65(a)(1)-(4) and 3 AAC 148.020 have been met. (Eff. ____/____/____, Register ____)

Authority: AS 44.33.065

3 AAC 148.040 Application review (a) The department will review for recommendation to the commissioner, the first complete application received after the application period has commenced for each seafood development region. Incomplete applications will not be

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considered.

(b) The department will notify the applicant of its review through certified mail. The department has fifteen (15) days from receipt of a completed application to review an application and make a written recommendation to the commissioner.

(Eff. __/__/__, Register __)

3 AAC 148.050 Recommendation to commissioner. (a) The department will issue and provide to the commissioner a written recommendation, encouraging the acceptance or rejection of the regional seafood development association applicant. The department's recommendation will be based upon whether the applicant has met the qualification criteria in AS 44.33.065(a)(1)-(4) and 3 AAC 148.020. The department's recommendation will set forth which of the qualification criteria the applicant has or has not met and what information was relied upon in reaching the determination.

(b) The department will provide the applicant's designated contact with a copy of this written recommendation through certified mail.

(c) If the applicant does not agree with the department's recommendation, the applicant shall have fifteen (15) days upon receipt of the recommendation to submit to the commissioner a written objection to the department's recommendation. Written objections postmarked after this deadline shall not be reviewed by the commissioner.

(Eff. __/__/__, Register __)

3 AAC 148.060 Commissioner's final determination. (a) The commissioner shall have

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thirty (30) days after receiving the department's written recommendation, to issue a final decision to accept or reject the applicant as a qualified regional seafood development association. The commissioner's determination whether the applicant has met the qualification criteria set forth is AS 44.33.065 (a)(1)-(4) and 3 AAC 148.020 shall be based on:

- (1) the department's written recommendation;
- (2) the applicant's written objection, if any, to the department's recommendation;

and

- (3) the information submitted by the applicant through the application process.

(b) The commissioner's decision is final for purposes of judicial review.

(c) Once the commissioner makes the determination, and if the decision rejects the recommendation, the department may begin reviewing the next complete application. (Eff. ____/____/____, Register ____)

Authority: AS 43.33.065

3 AAC 148.070. Requesting state financial assistance. A designated regional seafood development association may request state financial assistance. Requests for financial assistance shall be made through a reporting form available from the department. The form will require the submission of the financial reports for the preceding three (3) years including the activities engaged in by the association and its success in meeting goals and objectives. The form will also include a budget for the following year's activities and a financial performance report compiled by an independent auditing firm and conducted accordance to generally accepted accounting principles. (Eff. ____/____/____, Register ____)

Authority: AS 44.33.065

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3 AAC 148.080. Prohibitions on use tax contributions. (a) Regional seafood development associations are formed primarily for the purposes listed under AS 44.33.065(a)(1). Funds obtained through taxation activities in accordance with AS 43.76.370 shall not be used to the disadvantage of another region.

(b) Tax contributions and passive investment income may not be used for:

- (1) price negotiations between fishermen and seafood processors or
- (2) lobbying activities for increased fishery allocation.

3 AAC 148.900. Definitions. In this chapter, unless the context requires otherwise,

(1) "commercial fisheries" means those fisheries required by state law or regulation to hold a commercial fishing permit or license issued by this state;

(2) "commercial fishing" means the catching of finfish, shellfish, or other fishery resources with the intent to sell those resources for profit by sale in commercial channels, while holding all required licenses and permits;

(3) "commissioner" means the commissioner of the Department of Commerce, Community and Economic Development.

(4) "department" means the Department of Commerce, Community and Economic Development.

(Eff. __/__/__, Register __)

Authority: AS 44.33.020